

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT**

IN RE:

CHRISTOPHER D. WYMAN,

Debtor.

Case No. 12-32264

Chapter: 7

Hon. D. S. OPPERMAN

**RESPONSE OF ALLOWED SECURED JUDGMENT LIEN CREDITOR BARBARA
DUGGAN TO TRUSTEE SWEET'S MOTION TO "AMEND," DE 182**

Now comes allowed secured creditor, BARBARA DUGGAN ("Duggan"), and for her response to Trustee Sweet's Motion to Amend, DE 182, states:

1. Duggan is the holder of an allowed secured Judgment Lien secured against the real property located at 1011 Jones Road, Howell, Michigan 48855, (the "Property"), perfected with the Livingston County Register of Deeds on May 3, 2012, recorded at Liber 2012R-15343, et seq. *See Exhibit A.*
2. Pursuant to notice by this Court dated November 18, 2014, DE 155, Duggan duly filed her proof of secured claim, as ordered by this Court, on November 25, 2014, Claim No. 1. *See Exhibit B.*
3. No objections were filed to Duggan's Proof of Claim, and the claim was allowed by this Court, under 11 USC §502(a).
4. On June 7, 2018, Trustee Sweet filed his Motion to Sell the subject property subject to existing liens, under 11 USC 363(b), and to settle various Adversary Proceedings asserting various statutory and common law damage claims for fraud. DE 176. Duggan's allowed

secured lien was not addressed in or by the motion, was not the subject of any of the various adversary proceedings, and, exists independently from those adversary proceedings.

5. On July 5, 2018, this Court entered its Order GRANTING Trustee Sweet's motion and authorized him to sell the subject real property. DE 123. That order was a final appealable order.
6. No reconsideration or appeal of this Court's Order was taken, and, that Order is now res judicata as to the Trustee.
7. In accordance with 11 U.S.C §502(a), the relief requested by DE 182 is not permitted as this Court's Order of Sale, DE 123, is res judicata as to Trustee Sweet, and, a sale may not be authorized "free and clear" of a secured lien allowed by this very court in 2014 before the motion or the order were filed.

Wherefore, Duggan respectfully requests this Court deny/dismiss DE 182 and grant Duggan's Motion to Condition Sale of Realty under 11 USC 363(e), filed simultaneously herewith.

Respectfully Submitted,

BEJJANI LAW PLLC

/s/ Elie Bejjani

Elie Bejjani (P74626)
Attorney for Secured Creditor
6 Parklane Blvd, Suite 600
Dearborn, MI 48126
(313) 757-0036
elie@bejjanilaw.com

DATED: December 18, 2018

STATE OF MICHIGAN
IN THE 53RD DISTRICT COURT

BARBARA DUGGAN

Plaintiff

v.

CASE NO. 09-4485-GC
HON. SUZANNE GEDDIS

CHRIS WYMAN d//b/a CD WYMAN

Defendant.

TINDALL LAW
BY: MICHAEL E. TINDALL (P29090)
P.O. BOX 46564
MT. CLEMENS, MI 48046
(313) 638-7613
FAX: 815-572-5858
MET@COMCAST.NET

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served upon counsel of record herein at their respective addresses on the record on _____, 200__

___ US MAIL ___ E-FILE/MAIL ___
___ FAX ___ DELIVERY ___

AMENDED JUDGMENT

At a session of said Court held in the City of Howell
County of Livingston, State of Michigan on April 27, 2012

PRESENT: Hon. SUZANNE GEDDIS P-35307
DISTRICT COURT JUDGE

This matter having come before this Court on Plaintiff's MOTION TO AMEND JUDGMENT under MCR 2.612(A)(1); and, it appearing that, due to oversight, Judgment following Defendants' DEFAULT in this matter was entered only as to Count I of the Complaint, rather than as to Counts I and II as prayed in the Complaint; and the Court being otherwise fully advised in the premises:

IT IS ORDERED that Plaintiff's MOTION TO AMEND JUDGMENT be and it hereby is GRANTED.

IT IS FURTHER ORDERED that the original Judgment entered in this matter is amended, nunc pro tunc, to enter Judgment as to both Counts I and II in the amount of \$23,584.12, as prayed in the original Complaint, plus statutory interest from the date of the Complaint and costs as permitted by law.


DISTRICT COURT JUDGE

EXHIBIT A



2012R-015343
RECORDED ON
05/03/2012 08:44:21 AM
SALLY REYNOLDS
REGISTER OF DEEDS
LIVINGSTON COUNTY, MI 48843
RECORDING: 40.00
REMON: 4.00
PAGES: 11

STATE OF MICHIGAN
IN THE 53RD DISTRICT COURT

BARBARA DUGGAN

Plaintiff

v.

CASE NO. 09-4485-GC
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NOTICE OF CLAIM OF INTEREST

Please take notice that Plaintiff/Judgment Creditor claims an interest in the real property commonly known as 1011 East Jones Rd., Township of Cohoctah, County of Livingston, State of Michigan, Tax Id No. 02-24-300-007, more fully described in attached Exhibit 1, by virtue of a Judgment entered in the 53rd District Court, nunc pro tunc to January 5, 2010, a copy of which is attached hereto as Exhibit 2.

While the record owner of the property herein described is shown to be MICHELLE PICHLER, she is merely the fraudulent transferee of Defendant CHRISTOPHER D. WYMAN a/k/a CHRIS WYMAN, a/k/a CD WYMAN, often doing



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business as CD WYMAN INC, under MCL 566.34, who is, in fact, the true owner of the property. Further, the alleged Mortgage Lien represented by that certain mortgage dated October 17, 2009 at Liber 2010R, Page 002922 to one EDWARD LINK, 1829 HANOVER RD., ANN ARBOR MI 48103, the uncle of CHRISTOPHER D. WYMAN, attached as Exhibit 3, is also fraudulent under MCL 566.34.

Post Judgment proceedings are currently pending in the above matter before the 53rd District Court to nullify and invalidate the fraudulent transfers described above and to subject the subject real property to execution and receivership to satisfy Plaintiff's Judgment.

Respectfully Submitted,
TINDALL & COMPANY P.C.

BY: 
MICHAEL E. TINDALL P29090

For the Firm
P.O. BOX 46564
MOUNT CLEMENS, MI 48046
(313) 638-7613
(815) 572-5858 (FAX)
Direct Email: met@comcast.net

Dated: 5/2/12

DRAFTED BY:

TINDALL & COMPANY P.C.

Attorneys for Plaintiff Judgment Creditor

BY: MICHAEL E. TINDALL P29090

For the Firm

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B10 (Official Form 10) (04/13)

UNITED STATES BANKRUPTCY COURT		PROOF OF CLAIM						
Name of Debtor: CHRISTOPHER D. WYMAN	Case Number: 12-32264	<div style="text-align: center; font-weight: bold; margin-bottom: 10px;">COURT USE ONLY</div> <input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____						
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.								
Name of Creditor (the person or other entity to whom the debtor owes money or property): BARBRA DUGGAN								
Name and address where notices should be sent: BARBARA DUGGAN, C/O MICHAEL E. TINDALL ESQ. P.O. BOX 46564 MOUNT CLEMENS, MI 48046 Telephone number: (248) 250-8819 email: MET@COMCAST.NET		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.						
Name and address where payment should be sent (if different from above): Telephone number: email:		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.						
1. Amount of Claim as of Date Case Filed: \$ <u>27,389.24</u> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.								
2. Basis for Claim: <u>JUDGMENT-PERFECTED BY JUDGMENT LIEN</u> (See instruction #2)								
3. Last four digits of any number by which creditor identifies debtor: <div style="text-align: center; font-size: 1.2em;">4 4 8 5</div>	3a. Debtor may have scheduled account as: <u>23584.12</u> (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)						
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ <u>300,000.00</u> Annual Interest Rate _____ % <input type="checkbox"/> Fixed or <input checked="" type="checkbox"/> Variable (when case was filed)								
Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: <div style="text-align: right;">\$ <u>28,398.53</u></div> Basis for perfection: <u>JUDGMENT LIEN</u> Amount of Secured Claim: \$ <u>28,398.53</u> Amount Unsecured: \$ <u>0.00</u>								
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount. <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B). </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4). </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5). </td> </tr> <tr> <td style="vertical-align: top;"> <input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7). </td> <td style="vertical-align: top;"> <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8). </td> <td style="vertical-align: top;"> <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(____). </td> </tr> </table> <div style="text-align: right; margin-top: 10px;"> Amount entitled to priority: \$ _____ </div>			<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).	<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).	<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(____).
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<small>*Amounts are subject to adjustment on 4/01/16 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>								
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)								

7. Documents: Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. If the claim is secured by the debtor's principal residence, the Mortgage Proof of Claim Attachment is being filed with this claim. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain: **JUDGMENT ATTACHED. PERFECTED LIEN DOCUMENTS DELIVERED TO TRUSTEE**

8. Signature: (See instruction #8)

Check the appropriate box.

☐ I am the creditor. ☒ I am the creditor's authorized agent. ☐ I am the trustee, or the debtor, or their authorized agent. ☐ I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)
(See Bankruptcy Rule 3004.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: **MICHAEL E. TINDALL ESQ**

Title: **ATTORNEY AT LAW**

Company: **TINDALL LAW COUNSEL FOR CREDITOR**

Address and telephone number (if different from notice address above):

(Signature)

(Date)

Telephone number: email:

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the

claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest and documents required by FRBP 3001(c) for claims based on an open-end or revolving consumer credit agreement or secured by a security interest in the debtor's principal residence. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.